

REMARKS/ARGUMENTS

Claims 1-14 are pending in the application. The Examiner has rejected claims 1-14. Applicant has amended claims 7 and 11. Applicant respectfully requests reconsideration of pending claims 1-14.

The Examiner has objected to claims 7 and 11, requiring the "phrase 'so as' in line 2 of claims 7 and 11 are to be deleted to render the claims positive." Applicant has amended claims 7 and 11 are required by the Examiner. Applicant submits no new matter has been added and the amendments are merely cosmetic. Thus, Applicant submits the Examiner's objection to claims 7 and 11 is obviated.

The Examiner has rejected claims 2 and 4 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant respectfully disagrees.

Regarding claim 2, the Examiner alleges "using a second grant issued in response to (after) the first request for scheduling transmission of the second unit of the traffic to the switch fabric" renders the claim vague and indefinite. Regarding claim 4, the Examiner alleges "the first line card sends the first request after the second request" renders the claims vague and indefinite. However, Applicant notes claims 2 and 4 have not been amended and remain in their originally filed form. As such, they have been subject to the initial examination of the application, as well as the preparation and issuance of three prior Office actions, none of which raised any hint of an allegation of indefiniteness. Applicant submits, in order for the Examiner to have prepared those three previous Office actions and bring prior art rejections against claims 2 and 4 in each of those Office actions, claims 2 and 4 necessarily had to be understood by the Examiner as particularly pointing out and distinctly claiming certain subject matter. As claims 2 and 4 have not been amended, Applicant submits claims 2 and 4 continue to particularly point out and distinctly claim the same subject matter they have since the application was originally filed.

Moreover, Applicant submits the Examiner appears to be attempting to paraphrase and mischaracterize claims 2 and 4 and, while such mischaracterization may be vague and indefinite, Applicant submits claims 2 and 4 are not. Applicant notes the Examiner inserts the parenthetical expression "after" in the Examiner's recitation of claim 2. Applicant further notes the Examiner states, "In claim 1, from which claim 2 depends, the first grant is being issued after the second request and yet applicant is claiming that second grant is being sent after the first request." Applicant notes neither

claim 2 nor claim 1 from which it depends recites "after." Applicant notes claim 2 and claim 1 from which it depends recite "...in response to..." Applicant also notes the Examiner appears to attempt to paraphrase claim 2 as "that second grant is being sent after the first request." Applicant notes claim 2 actually recites "...using a second grant issued in response to the first request...." Regarding claim 4, Applicant notes the Examiner states, "Applicant needs to clarify whether 'sending' means requesting (request phase), granting (grant phase) or transmitting (data phase) the first request and when this step is being performed in regards to the previous steps of the claimed invention." Applicant submits claim 4 retains the same meaning it has had since the original filing of the application and throughout the preceding prosecution history of the application, during which no question was raised as to its meaning. Therefore, Applicant submits claims 2 and 4 are in condition for allowance.

The Examiner has rejected claims 1-4 and 6-13 under 35 U.S.C. § 103(a) as allegedly being unpatentable over the admitted prior art, in view of Kawarai, et al. (U.S. Patent No. 7,058,751 B2). Applicant respectfully disagrees.

Regarding claim 1, Applicant submits the cited portions of the cited reference fails to render obvious the subject matter of claim 1. As above, Applicant submits the Examiner appears to attempt to paraphrase and mischaracterize the claim language. Applicant notes the Examiner states, "The APA does not explicitly disclose the first grant is issued after a second request for a second unit of traffic having a second priority lower than the first priority and being destined to the first output port, for scheduling transmission of the first unit of traffic to the switch fabric."

Moreover, Applicant submits what the Examiner alleges to be "admitted prior art" teaches away from the Examiner's attempt to combine the alleged teachings of Kawarai et al. reference. For example, Applicant notes paragraph [0003] of the present application states, in part, as follows:

Line cards request access to use a path through the fabric to carry data to the desired destination line card. An arbitrator associated with the switch fabric processes the requests from all line cards to determine a way to grant access to line cards to optimize fabric utilization and fairness and other criteria. Once the decision is made, access is granted to line cards to send data destined for a particular destination through the switch fabric at a particular time. The switch fabric is configured so that, at that particular time, data sent from selected inputs is transferred to selected outputs corresponding to the grants given. The latency between data being presented to the fabric and it arriving at the destination line cards is deterministic. Thus, no reordering of the data occurs within the switch fabric.

Accordingly, Applicant submits it would not have been obvious to one of ordinary skill at the time of the invention to combine the alleged teachings of the Kawai et al. reference with the alleged "admitted prior art."

Moreover, Applicant submits the Kawai et al. reference is nonanalogous art, as Applicant submits the cited portion of the Kawai et al. reference refers to "the selecting process is completed on all input lines" and "the priority order of the input line." Applicant notes claim 1 does not recite a "priority order of the input line." Applicant submits Kawai's teaching of "each of the scheduler process sections #1 through #N moves the position of the round-robin pointer such that the priority order of the input line currently having the highest order can have the lowest order next time" would not yield the subject matter of claim 1 even if an attempt were made to combine it with the alleged "admitted prior art." Thus, Applicant submits the cited portions of the cited references do not render obvious the subject matter of claim 1. Therefore, Applicant submits claim 1 is in condition for allowance.

Regarding claim 2, Applicant submits the cited portions of the cited reference fail to render obvious the subject matter of claim 2. Applicant submits the Examiner has not made a *prima facie* showing of obviousness with respect to claim 2. Applicant submits the Examiner's allegations regarding claim 2 seem to conflict with each other. Applicant notes the Examiner states, "...APA discloses using a second grant issued in response to the first request..." Applicant notes the Examiner then cites "(paragraph 5, lines 1-5 wherein a second grant is made for the second request)." Applicant also notes "the first request" in claim 2 derives antecedent basis from "a first request for transmitting a first unit of the traffic of a first priority to the switch fabric" in claim 1, from which claim 2 depends. Applicant submits the cited portion of the alleged "admitted prior art" teaches away from such feature. Therefore, Applicant submits claim 2 is in condition for allowance.

Regarding claim 3, Applicant submits the cited portions of the cited reference fail to render obvious the subject matter of claim 3. Applicant submits the Examiner has not made a *prima facie* showing of obviousness with respect to claim 3. While the Examiner alleges "APA discloses a first priority and the second priority are selected from a plurality of priorities corresponding to a respective plurality of service classes" and cites "(paragraph 8, lines 1-3 where each request has indication of priority (high or low))," Applicant notes paragraph 8, lines 1-3, state as follows:

Referring to Figure 1, the flow of respective LP and HP request/grant/data occurrences are sequential in nature. Each request includes a priority indication, either high or low, an identifier, and a destination switch fabric output port indication....

Applicant submits the cited portion of the cited reference fails to teach or suggest, for example, "corresponding to a respective plurality of service classes." Thus, even if an attempt were made to combine such teachings, Applicant submits the subject matter of claim 3 would not be obtained. Therefore, Applicant submits claim 3 is also in condition for allowance.

Regarding claim 4, Applicant submits the cited portions of the cited reference fail to render obvious the subject matter of claim 4. Applicant submits what the Examiner alleges to be "admitted prior art" teaches away from the Examiner's attempt to combine the alleged teachings of Kawai et al. reference. For example, Applicant notes paragraph [0003] of the present application states, in part, as follows:

Line cards request access to use a path through the fabric to carry data to the desired destination line card. An arbitrator associated with the switch fabric processes the requests from all line cards to determine a way to grant access to line cards to optimize fabric utilization and fairness and other criteria. Once the decision is made, access is granted to line cards to send data destined for a particular destination through the switch fabric at a particular time. The switch fabric is configured so that, at that particular time, data sent from selected inputs is transferred to selected outputs corresponding to the grants given. The latency between data being presented to the fabric and it arriving at the destination line cards is deterministic. Thus, no reordering of the data occurs within the switch fabric.

Accordingly, Applicant submits it would not have been obvious to one of ordinary skill at the time of the invention to combine the alleged teachings of the Kawai et al. reference with the alleged "admitted prior art."

Moreover, Applicant submits the Kawai et al. reference is nonanalogous art, which Applicant submits the Examiner mischaracterizes as teaching "scheduling packets of highest priority level with lowest priority and scheduling packets of lowest priority level with highest priority", as Applicant submits the cited portion of the Kawai et al. reference refers to "the selecting process is completed on all input lines" and "the priority order of the input line." Applicant notes claim 4 does not recite a "priority order of the input line." Applicant submits Kawai's teaching of "each of the scheduler process sections #1 through #N moves the position of the round-robin pointer such that the priority order of the input line currently having the highest order can have the lowest order next time" would not yield the subject matter of claim 4 even if an attempt were made to combine it with the alleged

"admitted prior art." Thus, Applicant submits the cited portions of the cited references do not render obvious the subject matter of claim 4. Therefore, Applicant submits claim 4 is in condition for allowance.

Regarding claims 6 and 10, Applicant submits the cited portions of the cited reference fail to render obvious the subject matter of claims 6 and 10. Applicant submits the Examiner has not made a *prima facie* showing of obviousness with respect to claims 6 and 10. Applicant submits the Examiner appears to mischaracterize the teachings of the alleged "admitted prior art." While the Examiner alleges "APA discloses...the first line card further configured to utilize a first grant of the grants corresponding to a first request of the requests (paragraph 5, lines 1-3), wherein the first request is of a lower priority than a second request of the requests (paragraph 4, lines 4-6), for transmitting a first unit of the traffic corresponding to the second request to the switch fabric." Applicant submits neither paragraph 5, lines 1-3, nor paragraph 4, lines 4-6, disclose "utilize a first grant...for transmitting a first unit of the traffic." Applicant further submits paragraphs [0003], [0005], and [0006] teach away from, for example, "...utilize a first grant of the grants corresponding to a first request of the requests...for transmitting a first unit of the traffic corresponding to the second request...." Thus, Applicant submits the cited portions of the cited references fail to render obvious the subject matter of claims 6 and 10. Therefore, Applicant submits claims 6 and 10 are in condition for allowance.

Regarding claims 7 and 11, Applicant submits the cited portions of the cited reference fail to render obvious the subject matter of claims 7 and 11. Applicant submits the Examiner has not made a *prima facie* showing of obviousness with respect to claims 7 and 11. Moreover, Applicant submits what the Examiner alleges to be "admitted prior art" teaches away from the subject matter of claims 7 and 11. For example, Applicant notes paragraph [0005], line 10, states, "...duration 15 may exceed such latency limits." Therefore, Applicant submits claims 7 and 11 are in condition for allowance.

Regarding claims 8 and 12, Applicant submits the cited portions of the cited reference do not render obvious the subject matter of claims 8 and 12. Applicant submits the Examiner has not made a *prima facie* showing of obviousness with respect to claims 8 and 12. Applicant submits the Examiner's allegations regarding claims 8 and 12 seem to conflict with each other. Applicant notes the Examiner states, "...APA discloses the first line card utilizing a second grant of the grants corresponding to the second request (paragraph 5, lines 1-3." Applicant notes the Examiner then states, "Kawarai teaches

transmitting a second unit of traffic corresponding to the first request to the switch fabric (column 9, lines 23-32)."

Moreover, Applicant submits the Kawai et al. reference is nonanalogous art, as Applicant submits the cited portion of the Kawai et al. reference refers to "the selecting process is completed on all input lines" and "the priority order of the input line." Applicant notes claims 8 and 12 do not recite a "priority order of the input line." Applicant submits Kawai's teaching of "each of the scheduler process sections #1 through #N moves the position of the round-robin pointer such that the priority order of the input line currently having the highest order can have the lowest order next time" would not yield the subject matter of claims 8 and 12 even if an attempt were made to combine it with the alleged "admitted prior art." Thus, Applicant submits the cited portions of the cited references do not render obvious the subject matter of claims 8 and 12. Therefore, Applicant submits claims 8 and 12 are in condition for allowance.

Regarding claims 9 and 13, Applicant submits the cited portions of the cited reference fail to render obvious the subject matter of claims 9 and 13. Applicant submits the Examiner has not made a *prima facie* showing of obviousness with respect to claims 9 and 13. Applicant submits the Examiner's allegations regarding claims 9 and 13 seem to conflict with each other. Applicant notes the Examiner states, "...APA discloses the first line card issuing the first request prior to the second request...." Applicant notes the Examiner then cites "(paragraph 5, lines 1-5 wherein the first request is granted before the first)." Applicant submits the Examiner's allegations with respect to the cited portion of the alleged "admitted prior art" teach away from the subject matter of claims 9 and 13. Therefore, Applicant submits claims 9 and 13 are in condition for allowance.

The Examiner has rejected claim 5 under 35 U.S.C. § 103(a) as allegedly being unpatentable over the admitted prior art, in view of Kawai, et al. (U.S. Patent No. 7,058,751 B2) and further in view of Angle, et al. (U.S. Patent No. 6,771,596 B1). Applicant respectfully disagrees.

Regarding claim 5, Applicant submits the cited portions of the cited references fail to render obvious the subject matter of claim 5. As the Examiner states, "For claim 5, APA discloses..." and completes that sentence with practically the entire text of claim 5, Applicant submits the Examiner acknowledges so-called "APA" fails to disclose any of the subject matter added by claim 5.

Moreover, Applicant submits the Examiner does not make a *prima facie* showing of obviousness with respect to claim 5. Applicant submits the Examiner does not allege any teaching or suggestion in the cited portions of the cited references at to, for example, "...in an amount of guaranteed traffic flow serviced by the first line card...." Thus, Applicant submits an attempt to combine the subject matter of the cited portions of the cited references would not render obvious the subject matter of claim 5.


Furthermore, Applicant notes claim 5 depends from claim 1, which recites, in part, "using, by the first line card, a first grant received from the switch fabric permitting transmission of the first unit of the traffic to the switch fabric and issued in response to a second request made for a second unit of the traffic having a second priority lower than the first priority and being destined to the first output port, for scheduling transmission of the first unit of the traffic to the switch fabric." Applicant notes the cited portion of the Angle et al. reference includes "In this example, the programmable priority encoder 920 grants one of the requests 915 based upon the highest priority 910, e.g., an ORRC, supplied by the grant priority filter 905." Applicant submits such teaching teaches away from such feature of claim 1, from which claim 5 depends. Thus, Applicant submits the subject matter of claim 5 would not have been obvious to one of ordinary skill in the art at the time the invention was made even in view of the cited references. Therefore, Applicant submits claim 5 is in condition for allowance.

In conclusion, Applicant has overcome all of the Office's rejections, and early notice of allowance to this effect is earnestly solicited. If, for any reason, the Office is unable to allow the Application on the next Office Action, and believes a telephone interview would be helpful, the Examiner is respectfully requested to contact the undersigned attorney.

Respectfully submitted,

02/26/2009

Date



Ross D. Snyder, Reg. No. 37,730
Attorney for Applicant(s)
Ross D. Snyder & Associates, Inc.
PO Box 164075
Austin, Texas 78716-4075
(512) 347-9223 (phone)
(512) 347-9224 (fax)